

REMARKS

Favorable reconsideration of this application is respectfully requested in view of amendments above and the following remarks.

Status of Claims

By virtue of the amendments above, claims 1, 3, 9, 14, 15, 19, and 25 have been amended and claims 2 and 21 have previously been canceled without prejudice or disclaimer of the subject matter contained therein. Claims 1, 3-20, and 22-26 are currently pending in the application, of which claims 1, 10, 14, and 15 are independent.

No new matter has been introduced by way of the amendments above. Entry thereof is therefore respectfully requested.

Summary of the Office Action

Claims 14, 19, and 25 were rejected under 35 U.S.C. §101 because the claims are allegedly directed towards non-statutory subject matter.

Claims 1, 3-4, 9, and 22 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 5,598,459 to Haartsen (hereinafter “Haartsen”) in view of U.S. Patent Application Publication No. 2002/0174335 to Zhang et al. (hereinafter “Zhang”).

Claims 15-17, and 26 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Haartsen in view of U.S. Patent Application Publication No. 2002/0077060 to Lehikoinen et al. (hereinafter “Lehikoinen”).

Claims 5-7 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Haartsen in view of Zhang and further view of Lehikoinen.

Claims 8 and 20 are objected as being dependent upon a rejected base claim.

Claims 10-14, 18-19, and 23-25 were allowed.

Allowable Subject Matter

The indication that claims 10-14, 18, 19, and 23-25 are allowable over the cited documents of record and that claims 8 and 20 are objected as being dependent upon a rejected base claim, but would otherwise be allowable is noted with appreciation. It is respectfully submitted that the remaining pending claims are also allowable over the cited documents of record for at least the reasons presented herein below.

Drawings

The Office Action did not indicate whether the formal drawings filed with the application are accepted. Indication of acceptance of the drawings is requested.

Claim Rejection Under 35 U.S.C. §101

Claims 14, 19, and 25 were rejected under 35 U.S.C. §101 because the claims are allegedly directed towards non-statutory subject matter. Claims 14, 19, and 25 have been amended to recite “non-transitory” before “storage-medium” as suggested in the Office Action. The Examiner is therefore respectfully requested to withdraw this rejection.

Claim Rejections Under 35 U.S.C. §103(a)

The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. § 103 is set forth in *KSR International Co. v. Teleflex Inc.*, 550 U.S.398, 82 USPQ2d 1385 (2007):

“Under §103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented.” Quoting *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1 (1966).

As set forth in MPEP 2143.03, to ascertain the differences between the prior art and the claims at issue, “[a]ll claim limitations must be considered” because “all words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385. According to the Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in view of *KSR International Co. v. Teleflex Inc.*, Federal Register, Vol. 72, No. 195, 57526, 57529 (October 10, 2007), once the *Graham* factual inquiries are resolved, there must be a determination of whether the claimed invention would have been obvious to one of ordinary skill in the art based on any one of the following proper rationales:

- (A) Combining prior art elements according to known methods to yield predictable results;
- (B) Simple substitution of one known element for another to obtain predictable results;
- (C) Use of known technique to improve similar devices (methods, or products) in the same way;
- (D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results;
- (E) “Obvious to try”—choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success;
- (F) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art;
- (G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or

to combine prior art reference teachings to arrive at the claimed invention. *KSR International Co. v. Teleflex Inc.*, 550 U.S.398, 82 USPQ2d 1385 (2007).

Furthermore, as set forth in *KSR International Co. v. Teleflex Inc.*, quoting from *In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006), “[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasonings with some rational underpinning to support the legal conclusion of obviousness.”

Therefore, if the above-identified criteria and rationales are not met, then the cited reference(s) fails to render obvious the claimed invention and, thus, the claimed invention is distinguishable over the cited reference(s).

Claims 1, 3, 4, 9, and 22

Claims 1, 3, 4, 9, and 22 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Haartsen in view of Zhang. This rejection is respectfully traversed for at least the following reasons.

Independent claim 1 recites:

A method for operating a communications device capable of communicating with a cellular communications service provider and a wireless computer network service provider, the method comprising:

receiving an indication of potential interfacing of the communications device with a wireless hotspot, wherein the wireless hotspot comprises an interface through which the communications device is configured to communicate with a computer network, wherein the interface is facilitated by a wireless computer network service provider;

sending a request over a cellular communications network to the cellular communications service provider for verifying the trustworthiness of the provider of the wireless computer network service that provides the interface to the computer network; and on successful verification of the provider of the wireless computer network service, receiving a confirmation over the cellular communications network that the provider of the wireless computer network service is authenticated by the cellular communications service provider.

Independent claim 1 has been amended in minor respects to more clearly show that the claimed hotspot comprises an interface facilitated by a wireless computer network service provider that enables the communications device to communicate with a computer network. Support for this amendment may at least be found in paragraphs [0004], [0027], and [0028] of the originally filed specification.

In setting forth the rejection of independent claim 1, the Office Action relies heavily upon the disclosure contained in Haartsen. However, as will become clear from the following discussion, Haartsen fails to disclose the invention claimed in claim 1, especially in light of the amendments to independent claim 1 above.

Haartsen discloses a method and system for handing a cellular terminal 120 over from a wide-area cellular network provider 102 to a local home/office base station (such as a base station 110 for a wireless home or office telephone) when the cellular terminal 120 enters the local region of the home base station 110. Haartsen also discloses that the base station 110 is electrically connected to a wired network 108, which may comprise a normal telephone network (PSTN). *Haartsen*, column 5, lines 17-22. In this regard, Haartsen pertains to the hand off of telephone calls from a relatively more expensive cellular network 104 to a relatively less expensive wired network 108. *Id.*, column 5, lines 41-46.

In addition, Haartsen discloses that “the telephone base station performs authentication in order to prevent unauthorized cellular terminals from accessing the base station.” *Haartsen*, column 5, lines 36-59. Alternatively, the authentication process discussed in Haartsen may be reversed so that the telephone base station is authenticated to ensure that the telephone base station is authorized to accept the cellular terminal. *Id.*, column 6, lines 14-51. In both of these instances, it is either the cellular terminal or the

telephone base station that is examined for authorization or authentication purposes. In this regard, Haartsen fails to disclose that any sort of authentication or verification is made on a provider of the wired network 108 through which wired telephone calls are made. In fact, because the wired network 108 for telephone service is typically a trusted network, there does not appear to be any reasonable justification for verifying the trustworthiness of the wired network 108 of Haartsen.

In contrast, independent claim 1 pertains to a method of verifying the trustworthiness of a provider of a wireless computer network that provides a communications device with an interface to a computer network. Thus, independent claim 1 of the present invention does not recite that the communications device or the interface through which the communications device accesses the wireless computer network are authenticated and thus, the disclosure contained in Haartsen clearly differs from the features claimed in independent claim 1. More particularly, for instance, Haartsen fails to disclose the step of “sending a request over a cellular communications network to the cellular communications service provider for verifying the trustworthiness of the provider of the wireless computer network service that provides the interface to the computer network” as claimed in independent claim 1. In addition, Haartsen fails to disclose the step of “on successful verification of the provider of the wireless computer network service, receiving a confirmation over the cellular communications network that the provider of the wireless computer network service is authenticated by the cellular communications service provider” as also claimed in independent claim 1.

Moreover, the Office Action further appears to improperly assert that Haartsen discloses that the trustworthiness of the provider of telephone service through the wired

network 108 of Haartsen is verified. *Office Action*, page 3, lines 12-18. Again, it should be abundantly clear that Haartsen does not disclose that the trustworthiness of the telephone service provider is verified, but instead, discloses that either the cellular terminal 120 or the base station 110 is verified.

The Office Action notes that Haartsen fails to disclose both a cellular communications service provider and a wireless computer network service provider. *Office Action*, page 4, lines 1 and 2. In an effort to make up for this deficiency, the Office Action attempts to rely upon the disclosure contained in Zhang. More particularly, the Office Action asserts that the ISPs depicted in Figure 1 of Zhang are equivalent to the cellular communications service provider and that the wireless Lan Access point (WLAP) 120 of Zhang is equivalent to the claimed wireless computer network service provider. *Id.*, lines 3 and 4. The Office Action also alleges that “it would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the teaching of Zhang to Haartsen to provide security enforcement for user.” *Id.*, lines 5-7. These assertions are improper and are inadequate to render independent claim 1 unpatentable for at least the following reasons.

Initially, the interpretations of the elements depicted in Figure 1 of Zhang taken in the Office Action are improper because Zhang fails to show a cellular communications service provider. Instead, the ISPs depicted therein are Internet Service Providers that provide internet, and not, cellular communications. *Zhang*, paragraph [0019]. In addition, the WLAP 120 of Zhang cannot reasonably be construed as being equivalent to a wireless computer network service provider as claimed in independent claim 1 because the WLAP 120 is basically a wireless router, whereas the claimed wireless network service provider facilitates the interface through which the communications device communicates with a computer

network. As such, the WLAP 120 of Zhang may be equivalent to the hotspot interface, but it is not equivalent to the claimed wireless computer network service provider.

Secondly, the blanket assertion that it would somehow have been obvious to modify Haartsen based upon Zhang is clearly improper and deficient because this assertion fails to show how Haartsen is allegedly to be modified.

In any regard, like Haartsen, Zhang fails to disclose the steps of sending a request over a cellular communications network to the cellular communications service provider for verifying the trustworthiness of the provider of the wireless computer network service that provides the interface to the computer network and on successful verification of the provider of the wireless computer network service,-receiving a confirmation over the cellular communications network that the provider of the wireless computer network service is authenticated by the cellular communications service provider, as claimed in independent claim 1. Accordingly, even assuming for the sake of argument that one of ordinary skill in the art were somehow motivated to modify Haartsen based upon the disclosure contained Zhang as suggested in the Office Action, the proposed combination would still fail to render independent claim 1 unpatentable.

For at least the foregoing reasons, it is respectfully submitted that the combination of Haartsen and Zhang as proposed in the Office Action fails to render independent claim 1 *prima facie* obvious. The Examiner is therefore respectfully requested to withdraw the rejection of independent claim 1 and the claims that depend therefrom and to allow these claims.

Claims 15-17 and 26

Claims 15-17 and 26 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Haartsen in view of Lehikoinen. This rejection is respectfully traversed for at least the following reasons.

Independent claim 15 recites:

A method for operating a cellular telecommunications provider to authorize a wireless communications device to interface with a location-dependent wireless computer network service, the method comprising:

- tracking the location of the wireless communications device;
- determining that the wireless communications device is within a vicinity of and outside of an operating range of the location-dependent wireless computer network service;
- authenticating a provider of the location-dependent wireless computer network service, wherein the provider of the location-dependent wireless computer network service facilitates interfacing of the wireless communications device to a computer network; and
- providing an identification of the authenticated provider of the location-dependent wireless computer network service to the wireless communications device.

Independent claim 15 has been amended in minor respects to more clearly show that the claimed location-dependent wireless computer network service facilitates interfacing of the wireless communications device to a computer network. Support for this amendment may at least be found in paragraphs [0004], [0027], and [0028] of the originally filed specification.

In setting forth the rejection of independent claim 15, the Office Action relies upon the disclosures contained in Haartsen and Lehikoinen. However, as will become clear from the following discussion, the proposed combination of Haartsen and Lehikoinen fails to disclose the invention claimed in claim 15, especially in light of the amendments to independent claim 15 above.

The Office Action asserts that Haartsen discloses that a provider of a wireless computer network service is authenticated. *Office Action*, page 5, lines 11-13. This

assertion, however, is clearly improper because the Office Action indicated on page 4, lines 1 and 2, that “Haartsen fails to specifically disclose the...wireless computer network service provider.” As such, this assertion is clearly contradictory to the assertions made with respect to Haartsen in the rejection of independent claim 1. This assertion is also clearly improper because, as discussed above with respect to independent claim 1, Haartsen discloses that it is either the cellular terminal or the telephone base station that is examined for authorization or authentication purposes, and not on a provider of the wired network 108 through which wired telephone calls are made.

The Office Action also asserts that paragraphs [0013] and [0014] of Lehikoinen discloses a location-dependent wireless computer network service and that a determination that a user is within the vicinity of and outside of an operating range of the location-dependent wireless computer network service is made. *Office Action*, page 6, lines 1-4. This assertion is also improper because those cited sections of Lehikoinen do not disclose that a determination that a user is outside of an operating range of a location-dependent wireless computer network service is made. Instead, as discussed therein, when the mobile station is within an operating range of a short range communication beacon, a communication link is established between the mobile station and the beacon. In this regard, Lehikoinen does not disclose that a location of the mobile station is tracked prior to the mobile station being within the operating range of the short range communication beacon. In fact, it appears that Lehikoinen is only concerned with instances in which the mobile station is within the operating range of the short range communication beacon to thus enable the mobile station to establish a communication link with the beacon.

Accordingly, even assuming for the sake of argument that one of ordinary skill in the art were somehow motivated to modify Haartsen based upon the disclosure contained Lehikoinen as suggested in the Office Action, the proposed combination would still fail to render independent claim 15 unpatentable. The proposed combination would fail to disclosed, for instance, determining that the wireless communications device is within a vicinity of and outside of an operating range of the location-dependent wireless computer network service, authenticating a provider of the location-dependent wireless computer network service, wherein the provider of the location-dependent wireless computer network service facilitates interfacing of the wireless communications device to a computer network, and providing an identification of the authenticated provider of the location-dependent wireless computer network service to the wireless communications device, as claimed in independent claim 15.

For at least the foregoing reasons, it is respectfully submitted that the combination of Haartsen and Lehikoinen as proposed in the Office Action fails to render independent claim 15 *prima facie* obvious. The Examiner is therefore respectfully requested to withdraw the rejection of independent claim 15 and the claims that depend therefrom and to allow these claims.

Claims 5-7

Claims 5-7 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Haartsen in view of Zhang and further view of Lehikoinen. This rejection is respectfully traversed for at least the following reasons.

Claims 5-7 depend on independent claim 1 and are thus allowable over Haartsen and Zhang for at least the same reasons set forth earlier with respect to independent claim 1. The

Office Action attempts to rely upon Lehikoinen to make up for the deficiencies in claims 5-7. Thus, the Office Action has not and reasonably cannot rely upon the disclosure contained in Lehikoinen to make up for the deficiencies discussed above with respect to Haartsen and Zhang in the rejection of independent claim 1.

Accordingly, even assuming for the sake of argument that one of ordinary skill in the art were somehow motivated to modify the proposed combination of Haartsen and Zhang based upon the disclosure contained in Lehikoinen as suggested in the Office Action, the proposed combination would still fail to disclose each and every element claimed in independent claim 1, upon which claims 5-7 respectively depend.

Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below.

PATENT

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Please grant any required extensions of time and charge any fees due in connection
with this request to deposit account no. 08-2025.

Respectfully submitted,

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